

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

GraphOn Corporation, a Delaware)
Corporation,)
Plaintiff,)
v.) Civil Action No. 2:07-CV-367 TJW
AutoTrader.com, Inc., a Delaware) (JURY)
Corporation,)
Defendant.)
)
)

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Plaintiff, GraphOn Corporation (“GraphOn”), alleges the following in support of its Complaint for Patent Infringement and Demand for Jury Trial (“Complaint”) against Defendant AutoTrader.com, Inc. (“AutoTrader”).

PARTIES

1. Plaintiff, GraphOn Corporation is a corporation organized and existing under the laws of the State of Delaware, and has its principal place of business at 5400 Soquel Avenue, Suite A2, Santa Cruz, California.

2. Upon information and belief, Defendant AutoTrader.com, Inc. is a corporation organized and existing under the laws of the State of Delaware, and whose principal place of business is 5775 Peachtree Dunwoody Road, Suite A-200, Atlanta, Georgia.

JURISDICTION

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a) because this action arises under the laws of the United States, including 35 U.S.C. §§ 101, *et seq.* and 271, *et seq.* This Court has personal jurisdiction over AutoTrader because AutoTrader infringes GraphOn's patents by offering on their website, www.AutoTrader.com ("the website"), vehicle listing services to its customers and/or vehicle purchasers who reside in, or may be found in, the Eastern District of Texas.

VENUE

4. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b) because AutoTrader has committed acts of infringement in this district and, through the Website, has a regular and established place of business in this district.

COUNT 1

(Patent Infringement)

5. Paragraphs 1-4 of the Complaint set forth above are incorporated herein by reference.

6. On November 27, 2001, Untied States Patent No. 6,324,538 ("the '538 Patent") entitled "Automated On-Line Information Service and Directory, Particularly for the World Wide Web" was duly and legally issued to Ralph E. Wesinger, Jr. and Christopher D. Coley. All rights and interest in the '538 Patent were assigned to GraphOn on August 24, 2007. A true and correct copy of the '538 Patent is attached hereto as Exhibit A.

7. On February 1, 2005, United States Patent No. 6,850,940 (“the ‘940 Patent”) entitled “Automated On-Line Information Service and Directory, Particularly for the World Wide Web” was duly and legally issued to Ralph E. Wesinger, Jr. and Christopher D. Coley. All rights and interest in the ‘940 Patent were assigned to GraphOn on August 24, 2007. A true and correct copy of the ‘940 Patent is attached hereto as Exhibit B.

8. AutoTrader offers on the Website, a vehicle listing service to help its customers sell vehicles to buyers.

9. Upon information and belief, AutoTrader has infringed and continues to infringe under 35 U.S.C. § 271 the ‘538 and the ‘940 Patents (“the patents-in-suit”). The infringing acts include, but are not limited to, offering vehicle listing services on the Website that are covered by one or more claims of the patents-in-suit.

10. AutoTrader’s acts of infringement have caused damage to GraphOn. Under 35 U.S.C. § 284, GraphOn is entitled to recover from AutoTrader the damages sustained by GraphOn as a result of its infringement of the patents-in-suit. AutoTrader’s infringement of GraphOn’s exclusive rights under the patents-in-suit will continue to damage GraphOn’s business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

11. Upon information and belief, AutoTrader’s infringement of the patents-in-suit has been willful and deliberate, and entitles GraphOn to increased damages under 35 U.S.C. § 284 and attorney’s fees and costs under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, GraphOn respectfully requests that this Court enter judgment against AutoTrader as follows:

- (a) For judgment that AutoTrader has infringed and continues to infringe the '538 Patent and the '940 Patent;
- (b) For preliminary and permanent injunctions under 35 U.S.C. § 283 against AutoTrader and its directors, officers, employees, agents, subsidiaries, parents, attorneys, and all persons acting in concert, on behalf of, in joint venture, or in partnership with AutoTrader from further acts of infringement;
- (c) For damages to be paid by AutoTrader adequate to compensate GraphOn for its infringement, including interests, costs, and disbursements as the Court may deem appropriate under 35 U.S.C. § 284;
- (d) For judgment finding that AutoTrader's infringement was willful and deliberate, entitling GraphOn to increased damages under 35 U.S.C. § 284;
- (e) For judgment finding this to be an exceptional case, and awarding GraphOn attorney's fees under 35 U.S.C. § 285; and
- (f) For such other and further relief at law and in equity as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure Rule 38, Plaintiff GraphOn Corporation hereby demands a trial by jury.

Dated: August 24, 2007

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